


Entered - 08/10/99 - sb  
CL99L0497 - DIANNE C. MITCHELL

CLAIM OF: **DIEGO RUIZ,**  
through his attorney,  
**Charles K. Reed**  
**Suite 2700**  
**999 Peachtree Street, NE**  
**Atlanta, Georgia 30309**

**01- R -0943**

For damages alleged to have been sustained as a result of a personal injury due to stepping into an open water meter on March 21, 1999 on Buckhead Avenue.

THIS ADVERSED REPORT IS APPROVED

BY:   
**ROBERT N. GODFREY**  
**DEPUTY CITY ATTORNEY**

ADVERSED  
CITY COUNCIL JUL 02 2001

## ADVERSE REPORT

PUBLIC SAFETY &

LEGAL ADMINISTRATION COMMITTEE

DATE: 6/26/01

CHAIR: C. T. X. Hunt

William D. H. H. H.

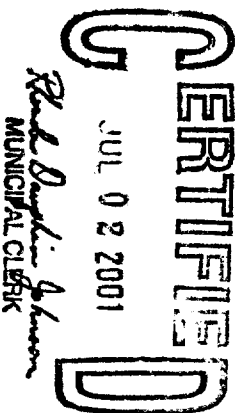
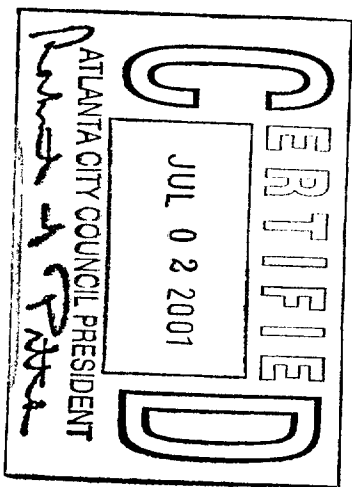
Chela H. H. H.

C. H. H.

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CITY OF ATLANTA  
OFFICE OF MUNICIPAL CLERK

RHONDA DAUPHIN JOHNSON, CMC  
MUNICIPAL CLERK

55 TRINITY AVENUE, S.W.  
SECOND FLOOR, EAST  
SUITE 2700  
ATLANTA, GEORGIA 30335  
(404) 330-6033  
FAX (404) 658-6103

July 2, 2001

Attorney Charles K. Reed  
999 Peachtree Street, N E  
Suite 2700  
Atlanta, Georgia 30309

01-R-0943

RE: Diego Ruiz

Dear Attorney Reed:

I sincerely regret that your client has been adversely affected by the circumstances raised in his/her claim for damages against the City of Atlanta. Your time and patience in this matter has been greatly appreciated.

However, I must notify you that the Atlanta City Council Adopted an Adverse Report on your client's claim at its regular meeting on July 2, 2001. In consultation with the City's Law Department, who conducted an investigation of the situation, the Council has determined that the City cannot accept responsibility for this matter and therefore cannot pay this claim.

If you desire any further information, please contact the City Attorney's Office/Claims Division at (404) 330-6400.

Yours very truly,

Rhonda Dauphin Johnson, CMC  
Municipal Clerk

cc: Claims Division/Law Department

**DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY**

Claim No. 99L0497

Date: June 12, 2001

Claimant /Victim DEIGO RUIZ  
BY: (Atty) Charles K. Reed  
Address: Suite 2700, 999 Peachtree Street, NE, Atlanta, Georgia 30309  
Subrogation: Claim for Property damage \$ Bodily Injury \$ 15,000.00  
Date of Notice: 08/20/99 Method: Written, proper X Improper         
Conforms to Notice: O.C.G.A. §36-33-5 X Ante Litem (6 Mo.) X  
Date of Occurrence 03/21/99 Place: Buckhead Avenue  
Department                                  Division:                                   
Employee involved                                  Disciplinary Action:                                 

NATURE OF CLAIM: The claimant alleges that he was injured when he stepped into an open water meter. The claim was forwarded to United Water Services Atlanta for handling and their insurance carrier, The Travelers, has settled this claim with the claimant.

**INVESTIGATION:**

Statements: City employee        Claimant        Others        Written        Oral         
Pictures        Diagrams        Reports: Police        Dept Report        Other         
Traffic citations issued: City Driver        Claimant Driver         
Citation disposition: City Driver        Claimant Driver       

**BASIS OF RECOMMENDATION:**

Function: Governmental        Ministerial         
Improper Notice        More than Six Months        Other        Damages reasonable         
City not involved        X Offer rejected        Compromise settlement         
Repair/replacement by Ins. Co.        Repair/replacement by City Forces         
Claimant Negligent        City Negligent        Joint        Claim Abandoned       

Respectfully submitted,

  
INVESTIGATOR - DIANNE C. MITCHELL

**RECOMMENDATION:**

Pay \$        Adverse X Account charged: 1A01        2J01        2H01         
Claims Manager: Dianne C. Mitchell Concur/date 06-13-01  
Committee Action:                                  Council Action

July 19, 1999

Page 2

Here, the City of Atlanta obviously had notice of a defect in the sidewalk because it provided a wholly inadequate barricade which had been destroyed by unknown forces. See photographs attached hereto as Exhibit "A". The city's failure to remedy this defect or otherwise warn the public of the defect constitutes negligence on behalf of the city of Atlanta.

As demonstrated by the medical bills attached hereto as Exhibit "B", Mr. Ruiz has incurred special damages in the amount of \$785.50. Also, as proved by the photographs attached hereto as Exhibit "A", Mr. Ruiz has endured substantial pain and suffering and disfigurement.

Pursuant to O.C.G.A. §51-12-14, the Unliquidated Damages Interest Act, Mr. Ruiz hereby demands \$15,000.00 to settle all claims against the City of Atlanta. If this amount is not paid within thirty days of the mailing of this notice, Mr. Ruiz will be entitled to receive interest at the rate of 12% per annum on the demanded sum if, upon trial of the case, the judgment is for an amount not less than the sum demanded.

Please advise if any further information is required for the city to make a decision on whether to settle this matter. I look forward to working with you in an effort to achieve an amicable resolution.

Sincerely,

LONG, WEINBERG, ANSLEY & WHEELER, LLP



Charles K. Reed

CKR/rp

Enclosures

cc: Mr. Diego Ruiz

01-*R*-0943

RCS# 2964  
7/02/01  
2:13 PM

Atlanta City Council

Regular Session

CONSENT

Pages 1 through 11

ADOPT

YEAS: 13  
NAYS: 0  
ABSTENTIONS: 0  
NOT VOTING: 2  
EXCUSED: 0  
ABSENT 1

SEE ATTACHED LISTING OF ITEMS  
ADOPTED/ADVERSED ON  
CONSENT AGENDA

Y McCarty	NV Dorsey	Y Moore	Y Thomas
Y Starnes	Y Woolard	Y Martin	B Emmons
Y Bond	Y Morris	Y Maddox	Y Alexander
Y Winslow	Y Muller	Y Boazman	NV Pitts

ITEM (S) REMOVED FROM  
CONSENT AGENDA  
01-O-0819

CONSENT

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**07/02/01 Council Meeting**

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**ITEMS ADOPTED ON  
CONSENT AGENDA**

1. 01-O-0869
2. 01-O-0965
3. 01-O-0969
4. 01-O-0977
5. 01-O-0857
6. 01-O-0911
7. 01-O-0968
8. 01-O-0920
9. 00-R-1625
10. 01-R-0929
11. 01-R-0931
12. 01-R-0932
13. 01-R-0989
14. 01-R-0993
15. 01-R-0957
16. 01-R-0926
17. 01-R-0982
18. 01-R-0923
19. 01-R-0956
20. 01-R-0963
21. 01-R-0975
22. 01-R-1001
23. 01-R-0933
24. 01-R-0934
25. 01-R-0935

**ITEMS ADVERSED  
ON CONSENT AGENDA**

26. 01-R-0936
  27. 01-R-0937
  28. 01-R-0938
  29. 01-R-0939
  30. 01-R-0940
  31. 01-R-0941
  32. 01-R-0942
  33. 01-R-0943
  34. 01-R-0944
  35. 01-R-0945
  36. 01-R-0946
  37. 01-R-0947
  38. 01-R-0948
  39. 01-R-0949
  40. 01-R-0950
  41. 01-R-0951
  42. 01-R-0952
  43. 01-R-0953
  44. 01-R-0954
  45. 01-R-0955
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